

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY

CERTIFIED MAIL

DATE: JUL 29 1993

EMPLOYER IDENTIFICATION NUMBER:

FORM NUMBER:

1120

TAX YEARS:

KEY DISTRICT:

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

Dear [REDACTED]:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason: [REDACTED] is not organized or operated exclusively for an exempt purpose as required by Internal Revenue Code §501(c)(3).

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Federal Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

[REDACTED]

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(signed) [REDACTED]

[REDACTED]  
Associate Chief  
St. Louis Appeals Office

INTERNAL REVENUE SERVICE

Department of the Treasury

District  
Director

Person to Contact: [REDACTED]  
Telephone Number: [REDACTED]  
Refer Reply to:  
Internal Revenue Service  
[REDACTED]

CERTIFIED  
[REDACTED]

Date: DEC 23 1992

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

The information submitted discloses that you were incorporated on [REDACTED], under the nonprofit corporation laws of the State of [REDACTED].

You were formed, according to your Articles of Incorporation, ".... exclusively for religious, charitable and educational purposes within the meaning of Section 501(c)(3) of the Code....; You also specifically state that your ".... primary concerns are the economic welfare of needy people (producers) in developing nations and the promotion is human dignity. In all departments - purchasing, warehousing, administrating, marketing and educating decisions are made to the producers best interests. An additional purpose is to further international understanding by helping North Americans better understand the causes of global poverty and injustices."

Your activities, according to your application, will be marketing products provided by developing countries. You will accomplish this task by operating a retail store available to the general public. In addition, you plan to sell your products at arts and crafts shows in the area throughout the year:

Your financial support is derived from the sale of crafts (after a markup over cost) and non-interest bearing loans. Your total expenditures (salary, rent, utilities, advertising, loan repayment and the cost of the crafts) are devoted to the operation of the retail store.

Membership in your organization is open to: "(1) All persons who within the pervious year, have volunteered on a regular basis in some aspect of the corporation's operation. (2) All persons who, within the pervious year have made contributions to the corporation of \$25.00 or more...."

12/21/92

12-31-92

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12-7342

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that "an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 68-117, 1968-1 C.B. 251 states, in part, a nonprofit domestic corporation formed to help poor rural inhabitants of developing countries by conducting a guided self-help program for social and economic development in the rural areas of these countries, providing training of farm women in home economics, cooking, nutrition, food preserving, and infant care, conducting demonstrations on how to upgrade dilapidated housing at a cost that farmers could afford. Conducting public health care training programs with emphasis on preventative measures was held to exempt under Section 501(c)(3) of the Code.

Your organization does not conduct any training or any other self-help programs to assist individuals in developing countries. In addition, your financial data does not reveal evidence of any expenditure for needy persons in developing nations. Instead, it appears that you are operating a business that is regularly carried on for the production of income from the sale of crafts

[REDACTED]

You are different from the organization in the aforementioned revenue ruling. In that ruling, the organization assisted the people in the developing countries by educating and training them so that they could help themselves.

Since your only activity of operating a retail store does not meet the operational test of Section 501(c)(3) of the Code, you are not entitled to exempt status.

You are required to file Federal Income Tax Returns.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within 30 days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

[REDACTED]

If we do not hear from you within 30 days from the date of this letter, this determination will become final. In accordance with Code Section 6104(c), we will notify the appropriate State officials of this action.

Sincerely yours,

[REDACTED]

District Director

Enclosures:  
Publication 892  
Form 6018